

TUESDAY, SEPTEMBER 23, 2003

A regular meeting of the Council of the City of Burbank was held in the Council Chamber of the City Hall, 275 East Olive Avenue, on the above date. The meeting was called to order at 5:00 p.m. by Ms. Murphy, Mayor.

CLOSED SESSION

Present- - - - Council Members Campbell, Ramos, Vander Borgh and Murphy.

Absent - - - - Council Member Golonski.

Also Present - Ms. Alvord, City Manager; Mr. Barlow, City Attorney; and, Mrs. Elliot, Municipal Records Clerk.

Oral Communications There was no response to the Mayor's invitation for oral communications on Closed Session matters at this time.

Additional Closed Session Item Mr. Barlow asked that an additional item related to Kirst v. City of Burbank be placed on the Closed Session Agenda stating that "there is a need to take immediate action and that the need for action came to the attention of the City subsequent to the agenda being posted."

Motion It was moved by Mrs. Ramos, seconded by Mr. Vander Borgh and carried with Mr. Golonski absent that "the closed session item regarding Kirst v. City of Burbank be added."

5:02 P.M. Recess The Council recessed at this time to the City Hall Basement Lunch Room/Conference Room to hold a Closed Session on the following:

- a. Conference with Legal Counsel – Existing Litigation:
Pursuant to Govt. Code §54956.9(a)
 1. **Name of Case:** In re: Pacific Gas and Electric
Case No.: SF 01-30923 (United States Bankruptcy Court, Northern District of California)
Brief description and nature of case: Bankruptcy case related to the restructuring of the energy market.
 2. **Name of Case:** City of Burbank v. State Water Resources Board
Case No.: Court of Appeals Case No. B150912
Brief description and nature of case: Waste Water Discharge Requirements.

3. **Name of Case:** Sara Kirst, et al. v. City of Burbank
Case No.: BC203061
Brief description and nature of case: Alleged employment discrimination.

- b. Conference with Legal Counsel – Anticipated Litigation (City as potential defendant):
Pursuant to Govt. Code §54956.9(b)(1)
Number of potential case(s): 3

Regular Meeting Reconvened in Council Chambers The regular meeting of the Council of the City of Burbank was reconvened at 6:35 p.m. by Ms. Murphy, Mayor.

Invocation The invocation was given by Reverend Carmen Blair, First Presbyterian Church.

Flag Salute The pledge of allegiance to the flag was led by Police Lieutenant Speirs.

ROLL CALL

Present- - - - Council Members Campbell, Golonski, Ramos, Vander Borght and Murphy.

Absent - - - - Council Members None.

Also Present - Ms. Alvord, City Manager; Mr. Barlow, City Attorney; and, Mrs. Campos, City Clerk.

301-1 Fundraiser for Animal Shelter Ms. Sippel, President of the Burbank Animal Shelter Volunteers, informed the Council of several volunteer programs at the Animal Shelter, commented on the shelter's current needs, and announced an upcoming fundraising dinner to benefit the Animal Shelter.

301-1 Emblem Club Week Mayor Murphy presented a proclamation in honor of National Emblem Club Week to Matilda Ramsey, President, and Elaine Paonessa, Immediate Past President, of the Emblem Club of Burbank.

Reporting on Council Liaison Committees Mr. Vander Borght reported on the Development and Community Services Building (DCSB) Committee meeting he attended with Mr. Campbell and noted the DCSB construction plans have resumed and are currently under review.

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Mr. Campbell reported on a Solar City Summit Conference he attended in San Francisco and stated he would meet with the Burbank Water and Power General Manager to share the information he considered useful in the development of a renewables portfolio standard.

6:50 P.M.
Hearing
1704-3
Revocation of
CUP Nos. 98-18
and 99-34
(Gitana)

Mayor Murphy stated that "this is the time and place for the hearing on the revocation of Conditional Use Permit Nos. 98-18 and 99-34 related to the operation of a nightclub and full service restaurant with billiard parlor, dance floor, live entertainment, cigar lounge, and up to sixty (60) amusement games in conjunction with the on-premises sale and consumption of alcoholic beverages at 260 East Magnolia Boulevard. The premises are operated by ADRD, Inc., doing business as Gitana."

Notice
Given

The City Clerk was asked if notices had been given as required by law. She replied in the affirmative and advised that written communications had been received from Ms. Helen Megerdichian, resident at 325 North Third Street; Mr. Howard Rothenbach; and Mr. Robin Vanderveer.

Request to
Continue
Hearing

Ms. Cecille Hester, Attorney representing Gitana, stated Gitana retained her services for the formulation of a security plan and requested the Council continue the hearing since the appropriate attorney to represent the matter at hand was not available.

Council
Response

Mr. Vander Borcht stated the staff report was presented to the Council over two weeks ago and noted since the public hearing was noticed, he was supportive of holding the hearing and continuing if necessary, following public testimony.

It was the consensus of the Council to proceed with the hearing and continue it only if any matters could not be resolved.

Staff
Report

Mr. Forbes, Senior Planner, Community Development Department, presented a report to the Council to consider the revocation of Conditional Use Permit (CUP) Nos. 98-18 and 99-34 that allow the operation of Gitana as a nightclub, restaurant, sports bar, and billiard parlor at 260 E. Magnolia Boulevard. He reported CUP No. 99-34 amended the original CUP No. 98-18, which was approved by the Council in 1998 following an

appeal of the Planning Board's decision to approve the permit. He stated a CUP was required for the business due to Municipal Code requirements for bars, nightclubs, and billiard parlors, and because of additional controls that were included in the Planned Development for the mixed-use project in which Gitana is located. He added the CUP allowed the operation of a bar and cigar lounge in conjunction with a full service restaurant, a nightclub with a dance floor, and a billiard parlor with up to 17 billiard tables, and further required only 50 percent of the business' gross receipts to be from food instead of the 65 percent that was otherwise required by the Planned Development, and allowed the bar area to exceed 15 percent of the total floor area as required under the Planned Development.

Mr. Forbes stated the original CUP was amended by the Council at the applicant's request in 2000 to allow the business to sell alcoholic beverages beginning at 10:00 a.m. on the weekend rather than 11:00 a.m. as otherwise required by the Planned Development, and amended an original condition that prohibited minors from entering the bar and billiards areas to allow minors prior to 9:00 p.m. and when accompanied by an adult. He added that after two six-month trial periods, the modifications were permanently adopted in 2001 through CUP No. 99-34 and since the original CUP was modified but not replaced, both CUPs are still legally in effect. He stated that staff recommended that both CUPs be revoked.

As a background to the matter, Mr. Forbes stated Gitana's CUPs were discussed by the Council in April 2003, following a newspaper article about the business and the Police Department's initiation of cost recovery for police calls as allowed by the CUPs. At the Council's request, he stated staff presented reports in May and July 2003 on Gitana's CUPs, the CUP revocation process, and the related criminal activity. He added the Chief of Police expressed his opinion that Gitana was creating a substantial adverse impact on the City's police services due to the volume and nature of police calls that had occurred at the business since October 2002, and therefore requested a compliance hearing be held with the Planning Board as specifically allowed by the conditions of approval on Gitana's CUPs. He reported that staff was recommending that the Council revoke the CUPs based upon three premises: the CUPs have been exercised contrary to the conditions of approval; to the detriment of public health and safety; and, so as to constitute a public nuisance. He noted the Burbank Municipal Code specifically provides that a CUP may be revoked by the Council based upon any or all of these grounds.

Mr. Forbes explained a condition of approval placed on both CUPs required Gitana to maintain operation from 10:00 a.m. to 2:00 a.m. seven days per week, as long as there are no substantial impacts on Police Department services during those hours. He added the condition further stated that Gitana can be found in violation of the condition of approval if evidence is presented to the Planning Board at a compliance hearing that police services are required to respond to nightclub-related incidents during the hours of operation in a disproportionate amount of calls compared to other businesses. He stated that on July 28, 2003, the Planning Board held the compliance hearing and received evidence from the Chief of Police that between October 2002 and July 2003, a total of 73 police calls for service were directly related to Gitana, including assaults with a deadly weapon, fights, and driving under the influence of alcohol. He added the Planning Board reviewed the evidence presented by the Chief, and Board Members expressed concern about the volume and nature of the police activity, as well as the potential effects on surrounding businesses and other users of the public parking structure in which some of the incidents occurred, and determined that the volume of calls related to Gitana was disproportionately high compared to other business. He stated the Board voted unanimously to determine that Gitana has created a substantial adverse impact on the Burbank Police Department and that the matter be set for a revocation hearing before the Council.

Regarding Gitana's detriment to public health and safety, Mr. Forbes stated Police Department evidence shows that many of the incidents at Gitana require response by the majority of officers on duty at any given time, which jeopardizes the public safety by preventing officers from quickly responding to other incidents. He also noted patrons who attempt to drive while intoxicated also pose a serious threat to the public safety due to the increased likelihood of a traffic collision. He also explained the California Civil Code defines a public nuisance as one which affects an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal. He stated Gitana has risen to the level of a public nuisance as shown by the evidence of its impact on the City's police services through the ongoing police call volume, large numbers of officers and resources often required to respond, and the resulting direct and indirect impacts on nearby properties and the community as a whole.

Mr. Forbes referenced a recent letter from Gitana offering to voluntarily close the nightclub while retaining the CUPs to allow the bar and billiards areas to remain open, and stated staff was not supportive of this request, noting that Gitana's adverse impacts on the Police Department, operation as a public nuisance, and operation as a detriment to the public health and safety are a result of the establishment as a whole, and cannot be attributed to the nightclub use alone. He explained that the size of the establishment, the large numbers of people that are present at one time, and the service of alcohol, whether or not in the nightclub, contribute to the problems, and staff believes that closing the nightclub only will not resolve all of the problems generated by this business. He stated revocation of the CUPs would still allow the restaurant portion of Gitana to continue operating with incidental alcohol under its existing alcohol license, but other portions of the business would have to be closed or converted to restaurant space to supplement the existing restaurant area.

Mr. Forbes further stated Gitana representatives indicated that changes have been made to address the problems, but noted potentially violent incidents and other police calls for service have continued as evidenced by the data collected since October 2002. He also informed the Council Gitana had made an initial payment of \$4,000 toward the outstanding police bills, and has worked out a payment plan for the balance of the money owed.

Police
Department
Report

Captain Bowers, Investigations Division, noted Burbank's history with problematic establishments as a result of mixing alcohol and dancing, including Black Angus, which resulted in the death of a security guard; Bobby McGee's, which resulted in a stabbing death; the Australian Beach Club, that voluntarily closed; and Sensations Village, which was closed after a series of incidents involving guns. He stated Gitana poses a security threat within the City, and specifically noted four public safety issues that the Police Department considered as justification for the revocation of Gitana's Conditional Use Permits including: 1) the number of incidents at Gitana was very high, 84 incidents requiring a significant police response excluding incidents such as auto burglary, forged credit cards, and stolen cars; 2) the nature of the incidents involved intoxicated patrons, weapons, and fights requiring emergency response, and noted one officer was injured in the process; 3) the extent of the incidents has been major, involving a large number of police officers, with several incidents requiring response from every police officer

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available on duty, leaving no officers available to respond to any other calls in the City; and, 4) the associated hazards of patrons driving under the influence of alcohol (DUI), and stated out of 75 identified cases for DUI citations, 27 were Gitana patrons, with the next highest number of patrons attributed to one location being eight.

Gitana
Representative

Cecille Hester, Attorney representing ADRD, Inc., dba Gitana, noted the issues raised about Gitana happened in the past, and that recent event statistics show a substantial reduction in the occurrences, which is attributed to the drastic steps taken by management. She reported Gitana management has maintained a cordial relationship with the Police Department and previously received written commendation relating to not serving alcoholic beverages to minors. She informed the Council that Gitana has discontinued the nightclub operations to their financial detriment, since determination was made that the nightclub was the major cause of the problems. She added the property owner will be taking back the nightclub square footage for other lease arrangements, and stated Gitana requested setting the matter for review in approximately six months to determine whether the Conditional Use Permit should be amended to exclude nightclub use. She noted the vast majority of the incidents occurred on Friday and Saturday nights, when the nightclub is open and affirmed that by closing the nightclub these incidents will subside. She also stated the majority of the incidents occurred in the City-owned parking lot and argued that several facilities use the parking lot and Gitana was not responsible for all parking-lot related incidents. She also stated that, although the CUP calls for two security guards, Gitana provides three security guards with a primary responsibility of observing and reporting incidents to the Police Department whether or not related to Gitana. She also stated several media reports have been misleading and noted that Burbank Bar and Grill would not measure up as a comparison to Gitana given the difference in square footage and patron capacity. She suggested comparison be made to the Century Club located in Beverly Hills and noted the violent occurrences in that club that are not present in Gitana. She also stated \$4,000 of the assessment has been paid and a payment agreement has been reached with the Financial Services Department to pay the balance of the assessment in installments of \$500 a month.

Regarding security procedures, Ms. Hester stated Gitana was in the process of a comprehensive security program that would require all guards to be State-certified through the Department of Consumer Affairs at Gitana's expense and once in place,

Gitana management would review the security plan with the Police Department for suggestions and modifications. She affirmed Gitana strives to make a positive contribution to the community. She stated the music format has been modified for a more family-friendly atmosphere and added Gitana will continue to take proactive steps to address all concerns. She noted Gitana's lease expires in 2007, the establishment employs several members of the community, and management is making concerted efforts in becoming more involved in the community and charitable events, and added the fundraisers held for the community have all been overshadowed by the negative aspect of the criminal activities. She added Gitana wants to focus on becoming more family oriented, and management will meet with the Police Department to review ways to operate safely.

Property Owner
Representative Mr. Gangi, representing Media Village Development Company, landlord and owner of the property located at 260 East Magnolia Boulevard, noted his disagreement with the police report and stated incidents predominantly occurred on late Friday and Saturday nights when the nightclub is in operation. He explained that nightclubs hire promoters who advertise in exchange for the cover charge at the door, which may result in attracting less than desirable patrons. He stated the police report highlighted two major areas of concern, at Gitana and the parking lot. He noted incidents in the parking lot related to individuals who had been denied access to Gitana and added Gitana's internal security was tight and prevented incidents inside the nightclub, sports bar or billiards area. He stated one fight inside Gitana pertained to a patron trying to retrieve narcotics that were seized by Gitana security guards, and when the police arrived at the scene the individual was placed in custody and the narcotics turned over to the police, but the call counted against Gitana.

Mr. Gangi confirmed that the nightclub square footage would be leased to a new tenant and stated since the nightclub was not in operation, reasonable comparison could be made with other establishments in the City. He noted the vacancy rate in the downtown area and the City's efforts to attract tenants and new development, and stated a 20,000 square foot vacancy in the area would be in detriment to these efforts and the new trend that has brought new development such as the AMC Theatre and stores like Urban Outfitters. He concluded by reaffirming that the closure of the nightclub would eliminate the incidents at Gitana.

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Citizen
Comment

Appearing to comment were Eden Rosen, in support of revocation of the Conditional Use Permits (CUPs), expressing lack of credibility for Gitana, noting Gitana's late response to the issues presented by the Police Department, and that while promoters do the advertising, management was responsible for hiring the promoters; Howard Rothenbach, expressing concerns on behalf of residents, stating residents were intimidated and coerced not to testify against Gitana, noting the City has accommodated Gitana in the past to the detriment of the City, such as with allowing Gitana to operate without State-certified security guards, and inquiring whether the property owner owed the City or Redevelopment Agency any money, noting Gitana did not address the complaints in a timely manner; Mark Barton, stating the electronic games inside Gitana are attracting the wrong crowd; Ron Vanderford, noting the difficulties of placing senior citizen housing above a nightclub/bar, suggesting a couple of restaurants which cater to a more mature crowd replace Gitana; David Piroli, noting difficulties in enforcing CUPs in the past, noting while Gitana does not accept responsibility for the problems, its management has attempted to rectify the problems which clearly illustrates responsibility for the problem, questioning the wisdom of allowing minors in the bar/billiards area, stating Gitana has clearly violated the terms and conditions of the CUPs, and did not take proactive measures, only attempting to rectify the problems after being faced with revocation; C.L. Stack, urging the Council to revoke both CUPs and not to grant an extension of time; Mike Nolan, expressing concern that the issue was raised by the Mayor and Vice Mayor, stating in the past there was a monitoring period, and that the Council has the evidence and testimony necessary to revoke the CUPs; Cecille Hester, addressing issues brought up by speakers, including the fact that Gitana has a Type 47 License and has never been cited by the Alcohol and Beverage Control Board for either serving overly-intoxicated patrons or minors, noting the video machines are no longer in the establishment, that the closure of the nightclub will make the promoter issues obsolete, and that if the CUPs are revoked without further consideration of the solutions implemented, it may be actionable, as it is Gitana's desire to resolve the matters without Court intervention; Peter Leone, a patron of Gitana, stating he has never witnessed any incident inside Gitana, stating it is a safe and friendly environment for its patrons, and supporting Gitana's efforts to rectify the problems; and Bob Etter, noting Gitana does not have a right to operate in Burbank, but rather has been granted a privilege to operate via the CUP process.

Rebuttal
Property Owner

In rebuttal, Mr. Gangi stated he was not in a position to publicly disclose the proposed tenant for the nightclub square footage as it would be detrimental to negotiations of the lease terms.

Mr. Vander Borght referenced an e-mail from Mr. Rothenbach with regard to the concerns expressed by residents and Mr. Gangi responded that management was unaware of any security breaches from the retail establishment to the senior housing level. Regarding the issues of the elevators, he stated Media Village Development Company owns other senior projects which have elevators and are not in close proximity to bars or nightclubs, but have both urination and defecation problems as incontinence is a problem with seniors. He noted management has not threatened any tenants with regard to testifying against Gitana and informed the Council he had just received a certified letter signed by 90 seniors with regard to other concerns, noting the tenants are very proactive and have no problem in expressing their concerns.

Police
Department
Response

Captain Bowers referred to testimony that the vast majority of incidents occurred during late hours on Friday and Saturday nights and stated that actually less than half the incidents occurred during that time and can therefore not be attributed to the nightclub operation. Regarding incidents in the parking structure, he reported 18 incidents out of the 84 occurred in the parking structure and affirmed the statistics were not misleading. Commenting about the decrease in calls for service, Captain Bowers informed the Council of an incident at Gitana in which a security guard refused to call the paramedics to attend to a patron who had been injured. He also clarified on the purported commendation from the Police Department to Gitana and stated as part of the ongoing practices for vice enforcement, sting operations are conducted on the sale of alcohol to minors, and letters are sent to the businesses informing them of the sting and commending them for abiding by the law with regard to the sale of alcohol to minors. Regarding Gitana's internal security, Captain Bowers stated several incidents have occurred inside the establishment, and added he did not recall any incidents where narcotics were turned over to the Police Department by Gitana security guards with the exception of the incident in which a fight ensued in the retrieval process.

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Staff Response In response to public comment, Mr. Forbes clarified the Conditional Use Permits (CUPs) allowed Gitana to have up to 60 video games in the facility; that minors are currently allowed in the bar/billiard area prior to 9:00 p.m. when accompanied by an adult per the CUP amendment; the CUPs required Gitana to have State-licensed security guards and a prior request to use non-licensed personnel was denied by the Planning Board and was not appealed to the Council; and stated Gitana was cited in 2001 for sale of alcohol to an under-aged decoy. He noted problems with the establishment have been on-going and management had ample time to address problems prior to the City addressing the matter, added that operating as nuisance did not have any correlation to the size of the establishment, and clarified if the CUPs were revoked, the business could still operate as a restaurant with incidental alcohol and the applicant could apply for a new CUP, noting this approach would be preferable to staff.

Hearing Closed There being no further response to the Mayor's invitation for oral comment, the hearing was declared closed.

Mr. Vander Borght requested clarification on the viability of the business if both Conditional Use Permits (CUPs) were revoked, and more specifically the hours of operation permitted if the business operated as a restaurant. Mr. Forbes responded the Planned Development provided that alcohol could not be served prior to 11:00 a.m. without a CUP; no restrictions were placed on the hours of operation and since the business was not located within 150 feet of a residential zone, the residentially-adjacent standards would not apply thereby providing the possibility of a 24-hour operation; the business would be allowed to have up to 10 arcade game machines; serving alcohol in the cigar/lounge area would require a CUP; and serving alcohol in the dance floor area would also require a CUP since the business would be categorized as a nightclub use.

Mrs. Ramos requested confirmation on the closure of the nightclub and removal of the arcade game machines, requested clarification on the operator of the restaurant, and noted Gitana's phone message still alluded to the nightclub operation. Ms. Hester responded the nightclub was closed a week ago and other nightclub fixtures and signage were in the process of being removed, stated the restaurant was not operated by ADRD, Inc., and noted the revocation would ultimately put Gitana out of business.

Mrs. Ramos also inquired whether any inspections were conducted to ascertain if 50 percent of Gitana's gross receipts

were from food sales, if signage was visible stating that alcoholic beverages may not leave the premises, if Gitana owed any money to the Redevelopment Agency, and if incident reports may be misleading in that they did not specifically pertain to Gitana. Staff responded signage was posted with regard to no alcohol leaving the premises, Gitana did not owe any money to the Redevelopment Agency, incident report statistics were accurate statements of the occurrences, and the Police Department had not conducted any specific inspection on gross receipts.

Mr. Campbell requested staff's input on whether revocation of the CUPs and reverting to the restaurant use would eliminate the problems at Gitana, and staff responded revoking all CUP uses in the nightclub, bar/cigar lounge, and billiards areas would revert the business to a restaurant with incidental alcohol thereby changing the business atmosphere. Staff added that all problems were not solely attributed to the nightclub, and noted the cigar/lounge and billiards areas would in themselves continue to pose a problem since fights and driving under the influence of alcohol (DUI) arrests have originated in the bar. Staff further noted the applicant could apply for a new CUP if any other uses would be considered.

Mr. Vander Borcht inquired as to the length of time needed for approval of a new CUP, and staff responded the process would take approximately six months.

Mr. Campbell requested clarification on the payment dispute, and Mr. Forbes responded Gitana had made an initial \$4,000 payment, and a payment plan had been established to pay the balance.

Mr. Campbell requested affirmation from the Police Department on the number and magnitude of Gitana-related incidents in July 2003, and Captain Bowers responded there were four incidents in the month of July 2003 with one incident requiring 16 officers, which constitute almost an entire complement.

Mr. Campbell inquired as to the new hours that ADRD, Inc. proposed for operation and requested clarification on the alleged incident in which a bruised patron was asked not to call the paramedics, and Ms. Hester responded that the current hours of operation would be maintained as a sports bar/billiard parlor and added Gitana personnel disputed that the bruised patron incident happened at Gitana. Mr. Campbell expressed support for the CUPs sunseting in six months and pursuing a new CUP.

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Chief Hoefel, requested the Council hear testimony of Lieutenant Gabriel who took the report of the bruised patron who was advised not to report the incident to the Police Department.

Lieutenant Gabriel reported that on May 30, 2003 he received a call asking him to return to the police lobby to attend to a gentleman who was reporting an assault with brass knuckles that had occurred the night before at Gitana. He reported the gentleman stated he was hit and was unconsciousness for about 30 seconds, and when he regained consciousness he reported the incident to Gitana security guards who refused to call paramedics. Lieutenant Gabriel stated he proceeded to Gitana with the injured patron and talked to the head of security and his staff, who admitted to the occurrence of the incident and stated such behavior would not recur.

Mr. Golonski noted the evidence received at the hearing, expressed disappointment at Gitana's failure to take more proactive steps, noting closing the nightclub a week ago was a reactive step, but suggested allowing the CUPs to sunset in six months, and that it be amended to expressly prohibit a nightclub use, while allowing the continuance of the sports bar. He stated his belief that the nightclub use was the major problem.

Mr. Vander Borcht noted the preponderance of evidence that Gitana posed a problem, and suggested reverting to the original CUP which was more stringent than the subsequent CUP, and allow for a transition period for the business.

Mr. Campbell stated Gitana operations were substantially detrimental to the community, expressed extreme concern with the unreported incident wherein a patron was injured, and stated while the Council has an interest in eliminating blight and bringing jobs to Burbank, the consequences of maintaining Gitana also had to be taken into consideration. He expressed support for allowing the business to operate with more than two billiard tables in addition to both CUPs sunsetting in six months.

Mr. Golonski clarified that three calls for police services in one month did not constitute a CUP violation.

Mrs. Ramos noted the change in the nature of business at Gitana for the worse, the failure to obtain State-licensed security guards, expressed disappointment that Gitana management claimed not to have been made aware of the problems until April 2003, informed the Council of a meeting she had with Mr. Gangi expressing similar concerns in September 2002, and stated she was in favor of revoking both CUPs and allowing for a new CUP process.

Ms. Murphy expressed disagreement with Ms. Hester about comparing Burbank Bar and Grill to Gitana, noted the similarities between the two businesses, and yet the two draw very different patrons. She noted the Police bills were only paid recently, security staff should have already attained State licenses, the nightclub should have been closed several months ago and concurred with the CUPs sunsetting in six months but without monitoring requirements.

Mr. Golonski suggested staff work with the applicant on mutually-agreeable amendments including a six-month sunset period for both CUPs, prohibiting nightclub use, modifying hours of operation, and that the revocation hearing be continued for one week.

Motion Following Council deliberation, it was moved by Mr. Golonski and seconded by Mr. Vander Borght that "the hearing be continued to the September 30, 2003 meeting, with recommendation that the applicant consider a proposal to amend both CUPs to sunset in six months, to change hours of operation to close no later than 1:00 a.m., to prohibit a nightclub use, and to remove 5,000 square feet of the former nightclub use from the operation."

Carried The motion carried by the following vote:

Ayes: Council Members Campbell, Golonski, Vander Borght and Murphy.

Noes: Council Member Ramos.

Absent: Council Members None.

9:40 P.M.
Recess The Council recessed at this time. The meeting reconvened at 9:51 p.m. with all members present.

9:51 P.M.
Jt. Hearing with
Redev. Agency Mayor Murphy stated that "this is the time and place for the joint public hearing of the Redevelopment Agency and the Council of the City of Burbank regarding the Peyton-Grismer

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1702
1102
DDA for Peyton-
Grismer
Revitalization
Project

Revitalization Project. The components of this project that require Council and Agency consideration are a Resolution approving an Agency Budget Amendment and Agency and Council Resolutions approving a Disposition and Development Agreement.”

Notice
Given

The City Clerk was asked if notices had been given as required by law. She replied in the affirmative and advised that no written communications had been received.

Staff
Report

Mr. Solomon, Redevelopment Housing Manager, Community Development Department, presented a report requesting Council approval of a Disposition and Development Agreement (DDA) with the Burbank Housing Corporation (BHC). He stated the proposed DDA required the Agency to convey, via a lease, ten Agency-owned residential buildings located at 1801, 1807, 1811, 1813 and 1815 Grismer Avenue; an unimproved property at 1819 Grismer Avenue; 1729A, 1729B and C, 1731, 1733 and 1735 Elliott Drive (Property) to be rehabilitated and operated by BHC as a mixed-income residential project with an affordability component for very low-income and lower-income households. He reported the project’s approach was patterned after the Elmwood Project, and involved acquiring and rehabilitating several key distressed properties affecting the immediate neighborhood, having BHC operate the site as a mixed income project with an affordability component, and constructing an activity center to provide services that will integrate tenants into the community. He explained the project is intended to address several problems associated with the Peyton-Grismer neighborhood: the deteriorated buildings; substandard parking; the location of parking and the configuration of the vehicular access points to buildings and parking areas which creates a dangerous condition in the event that emergency services are required within the larger parcels; very little usable recreation space available to the tenants; and bedroom sizes which do not correspond to a need identified in the City’s housing needs assessment for family units affordable to very low and lower-income households. He noted the project would fulfill several recommendations of the Blue Ribbon Task Force on Affordable Housing.

Mr. Solomon discussed the scope of development and stated rehabilitation would include demolishing and reconstructing buildings; re-striping parking areas; improvements and repairs that have been deferred for many years such as: repairing leaks,

dry rot, mold, termite damage, asbestos and lead-based paint abatement, smoke detectors, and sprinkler systems; remodeling kitchens and bathrooms with specific improvements focusing on health and safety issues including fixtures, cabinets and flooring; upgrading the electrical, plumbing and heating, ventilation, and air conditioning (HVAC) systems; new carpeting; interior and exterior painting; new exterior doors and windows; and re-roofing. He stated BHC would make available, restrict occupancy to, and rent 14 of the apartment units to very low-income households, and 19 of the apartment units to lower-income households predicated upon a distribution of 20 percent of all units reserved for very low-income and 27 percent of all units reserved for lower-income households.

Mr. Solomon then explained that, under the DDA terms, the Agency was responsible for assembling the property, implementing the amended Peyton-Grismer Relocation Plan; and funding other project costs including the site, architectural and landscape plans, and environmental reports. He also stated BHC was responsible for leasing the Agency Property for 55 years; obtaining a permanent loan to partially repay the Agency loan; obtaining land use approvals and entitlements; and completing the scope of development. He further explained the financial terms of the DDA and the analysis by Keyser Marston and Associates, and concluded by emphasizing that the project would improve the quality of life for residents, create a community environment, provide an activity center and recreation area, reduce overcrowding, improve driving safety, and units would be made available to very low and lower-income households in perpetuity.

Representative
of the Developer
Burbank Housing
Corporation

Ms. Arandes, Executive Director, Burbank Housing Corporation, urged the Council to approve the Development and Disposition Agreement (DDA) and noted the significance of the project in improving the quality of life for Burbank residents. She commended staff for their efforts, and stated although the project called for a large financial investment, its value to the community, such as enhancing safety and well-being in a neighborhood, new opportunities for children and parents, better access and circulation for emergency response services, increase in property values and the aesthetic improvements, and most notably permanently increases the affordable housing stock for the City, justified the investment. She commended the Council for their unwavering support of BHC.

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Citizen Comment Appearing to comment was Ruth Martinez Baenen, Board Member, Burbank Housing Corporation, noting the affordable housing crisis in the City, stating this project would aesthetically change the neighborhood, provide units for families who cannot afford to pay market rent, and urging the Council to approve the Development and Disposition Agreement.

Hearing Closed There being no further response to the Mayor's invitation for oral comment, the hearing was declared closed.

Mr. Vander Borgh expressed support for the project, and noted it would undertake a physical and social rehabilitation of the neighborhood.

Mr. Golonski concurred and inquired whether any changes would be made to the enclosed garages in the neighborhood. Mr. Solomon responded the garages would be replaced with surface parking. Mr. Golonski noted the project would reduce overcrowding, create an achievement center, improve traffic circulation, and provide affordable housing units, and commended the Burbank Housing Corporation for exceeding the Council's expectations.

Mr. Campbell stated the project would improve the quality of life to the neighborhood and noted deteriorated neighborhoods could inhibit childrens' ability to learn.

Motion It was moved by Mrs. Ramos and seconded by Mr. Campbell that "the following resolutions be passed and adopted:"

Redev. Agency Reso. Adopted Redevelopment Agency Resolution No. R-2085 Amending the FY 2003-2004 Annual Budget in the Amount of \$2,700,000 was adopted.

Redev. Agency Reso. Adopted Redevelopment Agency Resolution No. R-2086 Approving a Disposition and Development Agreement by and between the Agency and Burbank Housing Corporation was adopted.

1702 RESOLUTION NO. 26,555:
1102 A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK
DDA w/ Burbank APPROVING A DISPOSITION AND DEVELOPMENT
Housing Corp. AGREEMENT BY AND BETWEEN THE REDEVELOPMENT
(Peyton-Grismer) AGENCY OF THE CITY OF BURBANK AND BURBANK
HOUSING CORPORATION.

Adopted	<p>The resolutions were adopted by the following vote:</p> <p>Ayes: Council Members Campbell, Golonski, Ramos, Vander Borght and Murphy.</p> <p>Noes: Council Members None.</p> <p>Absent: Council Members None.</p>
Reporting on Closed Session	Mr. Barlow reported on the items considered by the City Council and the Redevelopment Agency during the Closed Session meetings.
Initial Open Public Comment Period of Oral Communications	Ms. Murphy called for speakers for the initial open public comment period of oral communications at this time.
Citizen Comment	<p>Appearing to comment were Joel Ingram, expressing concerns with the City's rebate program for the purchase of energy star refrigerators; Eden Rosen, commending Mrs. Ramos on her position regarding the Gitana revocation matter, and opposing renaming the Airport in honor of Bob Hope; Bob Etter, stating confusion will be caused by renaming the Airport in memory of Bob Hope; Dr. Theresa Karam, commenting on recent litigation between her and the City; Mark Barton, urging the Council to support Burbank Water and Power's proposal for a new billing system; and David Piroli, commenting on the referendum to repeal the car tax which will amend the State Constitution, noting the increased costs will be passed along to consumers whether or not they drive a luxury vehicle.</p>
Staff Response	Members of the Council and staff responded to questions raised.
Agenda Item Oral Communications	Ms. Murphy called for speakers for the agenda item oral communications at this time.
Citizen Comment	<p>Appearing to comment were Mark Barton, confirming that electronic game machines at Gitana had not yet been removed from the establishment, contrary to the comments by Gitana's attorney; Susan Bowers, commenting on a meeting with Magnolia Park merchants regarding holiday decorations, urging the Council to partner with merchants in the area and to</p>

develop a vision for the area; William Swoger, business owner, urging the Council to assist the merchants in revitalizing the Magnolia Park area; Sam Asheghian, owner of an auto repair shop, urging the Council to assist the merchants in revitalizing the Magnolia Park area; J.C. Hryb, business owner, urging Council support of the Magnolia Park merchants; Lisa Marquis, business owner in Magnolia Park, urging Council support of the Magnolia Park merchants; Dr. Theresa Karam, commenting on acceptance of a Department of Justice local law enforcement grant to the Burbank Police Department, and on the importance of education and crime prevention; Dr. Jay Adams, Chair of the Magnolia Park Community Advisory Committee, commending staff for the assistance provided to the Committee, calling for improved communication with the Merchants Association, commenting on the need for new projects, and seeking additional direction from Council with regard to the Magnolia Park area; David Piroli, inquiring whether the amendment to the Trust Property Easement pertains specifically to the use by the Southern California Public Power Authority (SCPPA); Bob Etter, commenting on the State holding unclaimed money for the Police Department; and Mike Nolan, commenting on a promotion in connection with a dance studio, recommending the owners of Gitana be present for the hearing, and inquiring why the City is seeking to purchase several properties in Burbank.

Staff
Response

Members of the Council and staff responded to questions raised.

Motion

It was moved by Mrs. Ramos and seconded by Mr. Golonski that "the following items on the consent calendar be approved as recommended."

Amended
Motion

Following Mr. Vander Borcht's request, it was moved by Mrs. Ramos and seconded by Mr. Golonski that "the item regarding the Extension of Holding Period to Initiate Housing Activities at 704-722 South San Fernando Boulevard (Lance Site) be amended to extend the holding period for one year to October 11, 2004 as opposed to October 11, 2005."

1102
1108
Extend Holding
Period for 704-
722 S. San
Fernando

RESOLUTION NO. 26,556:
A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK
EXTENDING THE PERIOD DURING WHICH THE
REDEVELOPMENT AGENCY OF THE CITY OF BURBANK MAY
RETAIN CERTAIN REAL PROPERTY.

907
801-2
Drug Asset
Forfeiture

RESOLUTION NO. 26,557:
A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK AMENDING THE FY 2003-2004 DRUG ASSET FORFEITURE FUND BUDGET.

804-3
801-2
DOJ Block
Grant

RESOLUTION NO. 26,558:
A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK AUTHORIZING THE ACCEPTANCE OF A \$51,381 U.S. DEPARTMENT OF JUSTICE BLOCK GRANT AND AMENDING THE FISCAL YEAR 2003-2004 BUDGET.

904
Automatic/
Mutual Aid
Agmt. w/Los
Angeles,
Glendale and
Pasadena

RESOLUTION NO. 26,559:
A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROVING THE AUTOMATIC/MUTUAL AID FIRE PROTECTION AGREEMENT FOR EXCHANGE OF FIRE PROTECTION, SPECIALIZED, RESCUE AND EMERGENCY MEDICAL SERVICES AMONG THE CITIES OF BURBANK, GLENDALE AND PASADENA (VERDUGO) AND THE CITY OF LOS ANGELES.

Adopted

The consent calendar as amended was adopted by the following vote:

Ayes: Council Members Campbell, Golonski, Ramos, Vander Borcht and Murphy.
Noes: Council Members None.
Absent: Council Members None.

203
Magnolia Park
CAC Status
Update

Mr. Garcia, Redevelopment Project Analyst, presented a report to the Council as an update on activities within the Magnolia Park Area, to seek Council direction on filling two existing vacancies on the Magnolia Park Community Advisory Committee (CAC), and to address the issue of inactive members. He reported that in November 2001, the CAC recommended that \$125,000 be earmarked from the General Fund for the next five fiscal years to fund the improvements and the expansion of the streetscape. He added that the Council voted to fund the improvements over the five-year period, with consideration on a recurring basis starting with Fiscal Year 2002-03. He stated the first two phases of angled parking were completed in August 2003, and design work has started for the next four phases.

Mr. Garcia further stated the reuse of the old Thrifty building is an ongoing issue with the Committee members, and added that

in November 2001, the CAC made a recommendation in support of Conditional Use Permit (CUP) No. 2000-30, for a multi-tenant retail facility. He noted the CAC has been discouraged by the inaction on the reuse of the property and has inquired about the possibility of the City buying the property. He added that staff is currently considering different options for the building which will be presented for Council consideration at a later date. He informed the Council that at the September 2002 CAC meeting, Subcommittee Member Vander Borgh requested that staff contact the Burbank Community Church to inquire about the possibility of a shared use of the parking lot, since the Church only utilizes the parking lot on Wednesday evenings and on Sundays, thereby providing an opportunity to utilize the parking lot for neighborhood businesses at other times. He stated staff anticipated reporting to the Council the proposed parameters for creating a shared-use parking lot at this location within 120 days.

Mr. Garcia also reported the CAC currently has 10 members and noted that over the past year, seven meetings have been cancelled due to a lack of agenda items or quorum. In addition, he reported agenda items are increasingly becoming updates to past projects rather than new projects that require action by the Committee. He added two Committee members resigned in May 2003, and to address the ongoing issue of member resignations, staff has reanalyzed possible options for maintaining membership as follows: 1) leave the CAC intact, fill the two existing vacancies and require seven members to achieve a quorum; 2) extend an invitation for applications for all 12 seats on the Committee, consisting of six merchants and six residents; or 3) reduce the size of the Committee to 11 members, thereby reducing the number needed to achieve a quorum to six. He stated in the past two years when a quorum was not established, the number of members attending was six, which would have allowed for a quorum to convene if the committee had eleven members. For this alternative, he stated staff recommended restructuring the representation to six merchants and five residents since the predominant issues that the CAC deals with have to do with businesses along Magnolia Boulevard, such as promotions and retail vacancies.

Following Council discussion, staff was directed to seek recommitment from the current CAC members and advertise for new applications.

406
4th Amend. to
Grant of
Easements for
Trust Property
(SCPPA)

Ms. Riley, Senior Assistant City Attorney, reported the Burbank-Glendale-Pasadena Airport Authority (Authority) requests the Council to approve a fourth amendment to the Grant of Easements, Declaration of Use Restrictions and Agreement for Trust Property (Trust Property Easements) to permit the Southern California Public Power Authority (SCPPA) to utilize approximately four acres of the Airport zoned portion of the Trust Property, a portion of the former Lockheed B-6 site, as a temporary location for storage and staging of materials used in the construction of the Magnolia Power Project. She stated the proposed amendment to the Trust Property Easements would not permit any additional use of the Trust Property without further approval by the Council, and SCPPA's ability to use a defined portion of the Trust Property would expire the earlier of October 30, 2005 or the date that its lease with the Authority otherwise is terminated.

Motion

It was moved by Mr. Golonski and seconded by Mrs. Ramos that "the following resolution be passed and adopted:"

406
4th Amend. to
Grant of
Easements for
Trust Property
(SCPPA)

RESOLUTION NO. 26,560:

A RESOLUTION OF THE COUNCIL OF THE CITY OF BURBANK APPROVING A FOURTH AMENDMENT TO THE "GRANT OF EASEMENTS, DECLARATION OF USE RESTRICTIONS AND AGREEMENT FOR TRUST PROPERTY" TO PERMIT TEMPORARY USE OF APPROXIMATELY 4 ACRES OF THE AIRPORT ZONED PORTION OF THE TRUST PROPERTY FOR USE BY SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY (BURBANK-GLENDALE-PASADENA AIRPORT AUTHORITY, APPLICANT).

Adopted

The resolution was adopted by the following vote:

Ayes: Council Members Campbell, Golonski, Ramos, Vander Borght and Murphy.

Noes: Council Members None.

Absent: Council Members None.

Ordinance
Submitted

It was moved by Mr. Vander Borght and seconded by Mr. Campbell that "Ordinance No. 3627 be read for the second time by title only and be passed and adopted." The title to the following ordinance was read:

9/23/03

1007-1
1009-1
Amend Chapter
2 of the BMC
Regarding
Public Works
Dept.

ORDINANCE NO. 3627:
AN ORDINANCE OF THE COUNCIL OF THE CITY OF BURBANK
AMENDING CHAPTER 2 OF THE BURBANK MUNICIPAL CODE
RELATING TO THE PUBLIC WORKS DEPARTMENT.

Adopted

The ordinance was adopted by the following vote:

Ayes: Council Members Campbell, Golonski, Ramos, Vander
Borgh and Murphy.
Noes: Council Members None.
Absent: Council Members None.

11:46 P.M.
Reconvene
Redev. Agency
Meeting

The Redevelopment Agency meeting was reconvened at this
time.

Final Open
Public Comment
Period of Oral
Communications

Ms. Murphy called for speakers for the final open public
comment period of oral communications at this time.

Citizen
Comment

Appearing to comment was Mike Nolan, inquiring as to the
City's reason for purchasing the property at 221 North Third
Street.

Staff
Response

Members of the Council and staff responded to questions
raised.

Adjournment

There being no further business to come before the Council, the
meeting was adjourned at 11:50 p.m.

Margarita Campos, City Clerk